

Remarks

The Office Action mailed August 26, 2003 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

After entry of this amendment, Claims 6-24 would be pending in this application. Claims 6-20 stand rejected. No claims stand objected to. Claims 1 and 3-5 were withdrawn from consideration, and are cancelled in this Amendment. In addition, Claims 8, 9, and 19 have also been cancelled. Claims 21-24 are newly added.

A fee calculation sheet for the newly added claims along with authorization to charge a deposit account in the amount of the calculated fee are submitted herewith. No fee is believed required for an extension of time to reply to the August 26, 2003 Office Action. However, the Commissioner is authorized to consider this a request for the necessary extension of time if such extension is required for entry of this Amendment, and as authorization to charge deposit account 01-2384 any necessary fees for entry and consideration of this Amendment.

Submitted herewith are corrected formal drawings containing the proposed drawing corrections filed on February 13, 2003 and approved by the Office. Because the proposed corrections have already been approved, it is believed that the corrected formal drawings do not constitute a further amendment to the drawings, as no additional changes are being proposed. Thus, the corrected formal drawings are submitted herewith as Replacement Sheets and are attached as a separate paper. The corrections made to the drawings have already been indicated in the February 13, 2003 proposed drawing correction.

For the reasons set forth above, Applicants submit that the Drawings meet the requirements of paragraphs 1 and 2 of the Detailed Action of August 26, 2003.

The rejection of Claims 6-20 under 35 U.S.C. § 102(b) as being anticipated by Bussan et al. is respectfully traversed.

The Office asserted that, in Figures 1-4, Bussan et al. disclose a shelf 12 for a refrigerator, wherein the shelf comprises a substantially flat plate 20 including a first surface and a second surface 62 and an outer periphery. The Office asserted that at least one cross support 50 extends below the plate first surface and a frame 58 is adhered to the outer periphery of the second plate surface 62 with a solid adhesive 80. The Office further asserted that frame 58 is adhered to the outer periphery of the plate second surface with a solid adhesive seal 80. Hence, according to this line of reasoning, the cross support and side supports are adhered to the plate by virtue of being integrally formed with the frame.

However, Bussan et al. do not teach or suggest that "cross support 50" is adhered to an (unnumbered) first side of flat plate 20. Instead, Bussan et al. teach only that frame member 50 extends beneath the periphery 48 of the glass plate and a portion 52 abuts glass plate 20. See col. 2, lines 56-58. A flange 54 extends upwardly from an outer surface of frame member 50 a distance approximately equal to the thickness of glass plate 20, and a smaller flange 56 projects upwardly from the flange 54 to provide a *weld bead for ultrasonically welding the upper frame 44 and the lower frame 46 together.*" (emphasis added) See col. 2, lines 58-64. Thus, upper and lower frame members are secured together so that lower frame member 46 carries the load. Col. 3, lines 13-15. Thus, although there is an adhesive 80 adhering frame 58 to second plate surface 62, there is no adhesive on *any* surface of glass plate 20 adhering lower frame member 46 to glass plate 20.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claim 6 as herein amended recites, "a substantially flat plate including a first surface, a second surface different from said first surface, and an outer periphery; at least one cross support extending below and adhered to said plate first surface with a solid adhesive; a frame adhered to said outer periphery of said plate second surface and forming a seal... ."

Referring to Figure 5 and page 4, line 25 to page 5, line 3, first surface 50 of substantially flat plate 12 is distinct from second surface 54 of plate 12, and periphery 56 is defined by a portion of second plate surface 54 adjacent plate edges 48. Thus, Claim 6 as herein amended clearly recites a structure in which the cross support 14 is "*adhered to*" a different surface of *plate 12* than is frame 18. Thus, the frame seal is independent of the size (i.e., thickness) of the glass plate and independent of shrinkage of the material used to make the frame. Rather, the sealing of the frame depends upon the flatness of the glass, which is easier to control than plate dimensions and plastic shrinkage. See page 2, lines 8-13.

Even assuming, which Applicant does not, that the cross support and side supports taught by Bussan et al. are adhered to a plate by being integrally formed with the frame, Bussan et al. teach no more than to adhere the cross support to the *same* surface of the plate as the frame. As such, the structure recited by Claim 6 is patentably distinguishable from those taught or suggested by Bussan et al.

Claim 14 as herein amended recites a similar feature to that recited by Claim 6 and is thus patentably distinguishable from structures taught or suggested by Bussan et al. for similar reasons.

Claims 8, 9, and 19 have been cancelled, so this rejection no longer applies to Claims 8, 9, and 19. Thus, the rejection of Claims 8, 9, and 19 as being anticipated by Bussan et al. should be withdrawn.

For the reasons set forth above, Claims 6 and 14 are submitted to be patentable over Bussan et al.

Claims 7, 10-13, 15-18 and 20 depend, directly or indirectly, from either independent Claim 6 or independent Claim 14. When the recitations of Claims 7, 10-13, 15-18 and 20 are considered in combination with the recitations of Claims 6 or 14, as appropriate, Applicant submits that dependent Claims 7, 10-13, 15-18 and 20 likewise are patentable over Bussan et al.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 6-20 be withdrawn.

Newly added Claim 21 recites "at least one cross support ... separated from said plate." See page 9, lines 11-13 and Figure 12. This is in contrast with "cross support" 46 of Bussan et al., which abuts the glass plate 20. See col. 2, lines 55-58. Therefore, Claim 21 is patentably distinguishable from Bussan et al.

Claim 22 is dependent upon Claim 21 and therefore patentable over Bussan et al. for similar reasons. Claim 22 further recites that the at least one cross support comprises steel (see page 5, line 16), in contrast to the plastic frame 18 of Bussan et al. (see col. 3, line 1) and is thus patentable for this additional reason.

Claim 23 is similar to the originally presented Claim 6, but recites "at least one steel cross support." The steel provides greater structural support than the plastic frame taught by Bussan et al. Thus, Claim 23 is patentable over Bussan et al. for reasons similar to those given with respect to the additional patentable feature of Claim 22.

Claim 24 recites an adhesive adhering at least one cross support to the plate first surface. Even assuming that the "cross support" of Bussan et al. could be correctly interpreted as being "adhered to" a surface of the flat plate, which interpretation Applicant disputes, Claim 23 depends upon Claim 23, which recites a steel cross support. Therefore, when the recitations of Claim 24 are considered in combination with the recitations of Claim 23, it is submitted that Claim 24 is likewise patentable over Bussan et al., irrespective of the disputed interpretation.

Appl. No. 09/480,345
Amendment Dated Nov. 26, 2003
Reply to Office Action dated Aug. 26, 2003

9D-HR-19109
PATENT

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Alan L. Cassel
Registration No. 35,842
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070